

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6432
BILL NUMBER: SB 153

DATE PREPARED: Feb 4, 2002
BILL AMENDED: Feb 4, 2002

SUBJECT: Hypnotists.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- (A) Provides that additional health care professionals may form professional corporations.
- (B) Provides that an individual who teaches hypnotism is a hypnotist.
- (C) Revises the requirements to serve on the Hypnotist Board and the requirements for hypnotist certification.
- (D) Revises acts that are prohibited by a hypnotist.
- (E) Makes practicing hypnotism without certification a Class A misdemeanor.
- (F) Authorizes injunctions against individuals who violate the hypnotist laws.
- (G) Repeals definitions of "qualified supervisor" and "supervision".
- (H) Exempts licensed chiropractors from hypnotist regulations.

Effective Date: July 1, 2002.

Explanation of State Expenditures: (Revised) (A) The Office of the Secretary of State (SOS) may experience an increase in administrative expenditures with respect to corporation fees. Under the bill, the following additional health professionals would be allowed to incorporate: hypnotists, dieticians, athletic trainers, physician assistants, mental health counselors, marriage/family therapists, social workers, respiratory therapists, occupational therapists, health facility administrators, and environmental health

specialists. (Under current law, the scope of incorporation could be limited, particularly with physicians assistants, which must be supervised by a physician. Physicians may not supervise more than two physician's assistants.)

(B) & (C) With respect to hypnotist members serving on the Hypnotist Board: No fiscal impact, given that a qualified hypnotist, as specified by the bill, would be available to become a Board member. Currently, Hypnotist Board members must have 300 hours of supervised classroom hours of hypnosis education from a recognized school of instruction.

The bill reduces from three years to one year the amount of actual practice a board member must have before becoming a member. There should be no fiscal impact from this provision.

With respect to current education requirements, the Indiana Commission on Proprietary Education (CPE) only recognizes two hypnotist schools. One is in Indiana, and the other is located in Illinois. For certification of candidates, the bill requires at least 500 supervised classroom hours of hypnotism education from a school recognized by the CPE or equivalent in another state. Current law requires 300 hours of hypnotism education for certification before January 1, 2005, and 350 hours after January 1, 2005.

(F) There may be an increase in expenditure by the Office of the Attorney General or the Hypnotist Committee if additional cases for injunctions are filed.

(D) & (G) No Fiscal Impact.

Explanation of State Revenues: (Revised) (A) The bill would allow the above listed health professionals, including hypnotists, to form corporations. As a result the state may experience an increase in fee revenue generated by filing documents of incorporation with the SOS. Under current law (IC 23-1.5-2-9 & 23-1.5-2-10) filing fees for registration are \$25 and renewal of registration is \$20. In FY 2000 total incorporation filing fees collected by the Secretary of State generated \$4.6 M in revenue. These fees are deposited into the state General Fund.

Secondary Impact: If more health professionals elect to incorporate, it is possible that these new corporations may be subject to either the Indiana Corporate Gross Income Tax or Corporate Adjusted Gross Income Tax and the Corporate Supplemental Net Income Tax, instead of the Individual Income Tax. Additional revenue *may* result with the change from Individual Income Tax rates to Corporate Tax rates. Corporate Gross Income Tax revenue is deposited into the state General Fund. Corporate Adjusted Gross Income Tax revenue is deposited into both the General Fund and the Property Tax Replacement Fund. Supplemental Net Income Tax revenue is deposited into the General Fund.

(B) & (C) As described above, this provision would increase the number of supervised instruction hours from an accredited school as required for certification from 350 to 500 hours. This provision could result in fewer certifications issued, which would reduce the amount of revenue generated by qualified candidates when fees are established. The Indiana Health Professions Bureau (HPB) reports there were 75 hypnotist certificates issued as of June 30, 2001. Total fees collected for hypnotist certification totaled \$5,285 in FY 2001. The following table illustrates the fees collected:

Fee Type	Fee
Certification by examination (Not including applicant's cost to purchase exam.)	\$30
Application for certification to practice as a hypnotist or hypnotherapist	\$30
Verification of certification	\$10
Renewal of certificate	\$20
Reinstatement of expired certificate	\$10

(E) If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

(F) Under the bill, if the Office of the Attorney General or the Hypnotist Committee files a case in court for an injunction against an individual to stop practicing hypnosis and the individual does not stop, that person may be found in contempt of court. Depending on the case, if the judge assigns a fine for the contempt charge under civil proceedings, the State could receive revenue if the judge awards the fine to the State.

(D) & (G) No Fiscal Impact.

(H) Under current law, licensed dentists, physicians, osteopaths, psychologists, social workers, registered nurses, marriage and family therapists, Lamaze instructors, certain law enforcement officers, and entertainers using hypnotism for amusement purposes are exempted from the certification requirements to practice hypnotism. Under the bill, chiropractors would be added to this list of exempted professions. Any fiscal impact to state revenue would depend on the number of chiropractors using hypnotism as a treatment of patients that would no longer be required to be certified under the bill.

Explanation of Local Expenditures: (E) A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

(F) There may be an increase in expenditure by the county prosecutor if additional cases for injunctions are filed.

(D) & (G) No Fiscal Impact.

Explanation of Local Revenues: (E) If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement

the compensation of jury members.

(F) Under the bill, if the county prosecutor files a case in superior or circuit court for an injunction against an individual to stop practicing hypnosis and the individual does not stop, that person may be found in contempt of court. Depending on the case, if the judge assigns a fine for the contempt charge under civil proceedings, the county could receive revenue, given the judge awards the fine to the county.

(D) & (G) No Fiscal Impact.

State Agencies Affected: Indiana Hypnotist Committee, Office of the Attorney General, Office of the Secretary of State.

Local Agencies Affected: County prosecutors, trial courts, local law enforcement agencies.

Information Sources: Ross Miller, Indiana Commission on Proprietary Education; Micheal McMahon, Indiana Judicial Center (317) 232-1313; Matt Hopper, Indiana Health Professions Bureau; Marion County Office of the Auditor (317) 327-3005.